



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Friday, the Sixteenth day of October Two Thousand and Twenty

PRESENT

The Hon`ble Mr.Justice M.GOVINDARAJ

CMP(MD) No.6071 of 2019
IN
SA(MD) No.668 of 2009

CHINNIAH

... PETITIONER/APELLANT

Vs

1 MANICKAM
(DECEASED SOLE RESPONDENT)

2 CHANDRA
3 AMUTHA
4 JEYA
5 VIJAYA

... RESPONDENTS 2 TO 5/
L.Rs. OF THE DECEASED SOLE RESPONDENT

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to condone the delay of 1743 days in set aside the order of dismissal dated 26.08.2014 passed in S.A.No.668 of 2009 on the file of this Honourable Court.

PRAYER IN SA(MD)No.668 of 2009 :

To prefer this Second Appeal against the decree and Judgment passed in A.S.No.24/2008 on the file of the Principal District Court, Madurai dated 15.12.2008 confirming the decree and Judgment passed in O.S.172/2004 on the file of the District Munsif, Madurai dated 19.12.2005.

ORDER : This petition coming on for orders, on this day upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.K.N.GOVARDHANAN, Advocate for the petitioner and of Mr.K.MAHENDRAN, Advocate for R2 to R5, the court made the following order:-

This petition has been filed to condone the delay of 1743 days in representing the petition to set aside the order of dismissal, dated 26.08.2014 passed in the above Second Appeal.

2.Mr.K.Mahendran, learned counsel appearing for the respondents 2 to 5, brought to the notice of this Court that the petitioner has



filed the very same petition as early as in the month of September, 2014. Suppressing the said fact, once again, he has filed the present petition in the year 2019.

3. I have also gone through the affidavit and petition filed in the month of September, 2014 and on verification, it is seen that the facts averred therein verbatim the same as that of the present one. Unfortunately, the petition filed in the year 2014 was followed-up and now, the fresh petition is filed. It is well settled that for the fault on part of the counsel, a litigant shall not suffer.

4. Considering the facts and circumstances of the case and also considering the present COVID-19 pandemic situation, this Court is inclined to condone the delay, subject to payment of cost.

5. Accordingly, this petition is ordered and the delay of 1743 days is condoned, subject to the condition that the petitioner shall pay a sum of Rs.5,000/- (Rupees Five Thousand only) towards as cost in favour of Creche maintained by the Women Lawyer's Association, on or before 03.11.2020, failing which, this petition shall stand dismissed automatically without any further reference to this Court.

6. Registry is directed to post the matter on 03.11.2020 for reporting compliance.

sd/-
16/10/2020

/ TRUE COPY /

/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1.THE PRINCIPAL DISTRICT JUDGE, MADURAI.
- 2.THE DISTRICT MUNSIF, MADURAI.

COPY TO:

THE OFFICER INCHARGE,
CRECHE MAINTAINED BY WOMEN LAWYER'S ASSOCIATION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN
CMP(MD) No.6071 of 2019
IN
SA(MD) No.668 of 2009
Date :16/10/2020

trp

<https://hcmv.csr.gov.in/CaseDetails.aspx?CaseNo=1.2020/2P/4C>